

TRUSTEES of the CHICAGO REGIONAL
COUNCIL OF CARPENTERS PENSION
FUND, et al.

Plaintiffs,

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KINGDOM CONTRACTING INC. and
MICHAEL GUERRIERI

Defendants.

Case No. 18 cv 153
Judge Chang

Motion to Reinstate and for Judgment

Plaintiffs, by its attorney, Daniel P. McAnally, move this Honorable Court to reinstate this case for Defendants' breach of a settlement agreement and enter judgment according to Fed. R. Civ. P. 55 for Defendants' failure to appear, answer or otherwise plead. Further, in support of this Motion the Plaintiffs state:

1. On March 20, 2018, this case was dismissed with leave to reinstate on or before April 16, 2018 due to Plaintiffs' counsel informing the Court via the courtroom deputy that the case was settled. Defendant agreed to submit payment by March 18, 2018, and if it did not, Plaintiffs would reinstate the case and seek a judgment for all amounts due. The Defendant did not submit the payment.
2. The Defendants have failed to appear, answer or otherwise plead within the time allowed by the Fed. R. Civ. P. and were previously defaulted on February 12, 2018.
3. At all times relevant to this action, the Defendant, Kingdom Contracting Inc., has been bound by the provisions of a Collective Bargaining Agreement and the Trust Agreements which created the Trust Funds. Pursuant to the provisions of the Trust Agreements and the Collective Bargaining Agreement, Kingdom Contracting Inc. is required to submit monthly reports to the Trust Funds which list the number of hours worked by the Kingdom Contracting Inc.'s employees and to pay the ERISA contributions based on those hours.

4. Kingdom Contracting Inc. submitted the monthly contribution reports but failed to submit the ERISA contributions shown to be owed in the amount of \$49,205.56 for the months of September 2017 through December 2017. Kingdom Contracting Inc. also failed to remit the union dues it withheld from the employees' wages. The amount of dues withheld is \$815.76 for the period November 2017 and December 2017. (Exhibit A, affidavit of Kristina M. Guastaferrri, CPA, Administrator, Chicago Regional Council of Carpenters Benefit Funds)

5. Kingdom Contracting Inc. owes interest on the unpaid ERISA contributions in the amount of \$735.61 pursuant to the Trust Agreements and 29 U.S.C. §1132(g)(2)(B). (Exhibit B)

6. Kingdom Contracting Inc. owes liquidated damages on the unpaid ERISA contributions in the amount of \$7,243.28 for the period August 2017 through December 2017 pursuant to the Collective Bargaining Agreements, the Trust Agreements and 29 U.S.C. §1132(g)(2)(C)(ii). (Exhibit B)

7. Kingdom Contracting Inc. owes the sum of \$5,783.50 for necessary and reasonable attorney fees and costs of \$460.00 which are collectible under the terms of the Collective Bargaining Agreement, the Trust Agreements and 29 U.S.C. §1132(g)(2)(D). (Exhibit B, affidavit of Daniel P. McAnally)

8. Defendant, Michael Guerrieri, is personally liable for the dues pursuant to the Agreement and also under the Illinois Wage Payment and Collection Act, 820 ILCS 115/1, et seq. Michael Guerrieri is an officer of Kingdom Contracting Inc. and knowingly permitted and willfully refused to remit dues on behalf of its employees in violation of the Wage Act. 820 ILCS 115/14.

WHEREFORE, Plaintiffs pray that this case be reinstated and judgment by default be granted against Kingdom Contracting Inc. in the amount of \$64,243.71 and against Michael Guerrieri individually in the amount of \$815.76.

Respectively submitted,

s/ Daniel P. McAnally

Attorney for Plaintiffs

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